



**BEFORE THE DEPARTMENT OF  
ELEMENTARY AND SECONDARY EDUCATION**

**[REDACTED], a minor.**

**. , by and )**  
**through his mother, )**  
Petitioners, )

V.  
HICKMAN MILLS C-1 SCHOOL DISTRICT, )  
Respondent. )

**RESPONDENT HICKMAN MILLS C-1 SCHOOL DISTRICT'S  
MOTION TO DISMISS OR IN THE ALTERNATIVE FOR  
SUMMARY JUDGMENT AND SUGGESTION INSUPPORT**

**I. INTRODUCTION**

This matter should be dismissed because all of the relief requested is either 1) unavailable to Petitioners, or 2) relief which falls outside of. that which play be obtained under the IDEA; nevertheless, the requested relief is something which the District is/has been willing to provide voluntarily. Because the relief is unavailable, is already being offered by Hickman Mill, is outside the scope of the relict which may be granted and/or is something that the District would voluntarily provide, all of the issues to he decided at the hearing arc moot, and Petitioners' Request for a Due Process blearing should be dismissed.

**II. ARGUMENT**

A. Tri-County Does Not Offer Educational Services

Petitioners' Request for a Due Process Hearing should be dismissed because the  
requested relief is simply non-existent. In Petitioners' Request for Due Process, Petitioners have  
requested that be placed at "Tri-County," A placernent at Tri-County is

simply impossible. Tri-County is not a facility which contracts to provide educational services for Hickman Mills' students. See Affidavit of Mike Shields, attached as Exhibit A, at 112. Instead, Tri-County is a program for children with persistent mental health illnesses. See Affidavit of Mike Shields, attached as Exhibit A, at 3-4. Tri-County provides mental health services for children, but does not provide a day school program and does not provide services for students outside the district in *which* it is located. See Affidavit of Mike Shields, attached as Exhibit A, at 3 and 5.

A placement at Tri-County for [redacted] is simply impossible. Hickman Mills cannot place [redacted] at a facility which does not provide educational services for District [redacted] Students. Therefore, because the requested relief is non-existent, this Request for Due Process should be dismissed.

**B. Hickman Mills Will Allow Petitioners To Meet With The Director of Special Education**

Petitioners have also requested to meet with an individual "hire [sic] up" than the IEP Team. Hickman Mills assumes that [redacted] is requesting a meeting with the individual responsible for supervising the Special Education Program. First, with all due respect, it is not the function of this Panel to compel discussions occur between a parent and a member of the District's administrative staff. Moreover, and more importantly, Hickman Mills is more than willing to accommodate [redacted] request and allow her to meet with Ms. Jackie Chatman, Director of Special Education, to discuss [redacted] education.

**C. Case Law**

In a similar matter, a Missouri hearing panel dismissed a request for due process where the only issue presented by the parent was a request that the school district provide the student with a program of special education through a private contractual arrangement. In the Matter of

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Student Petitioner and St. Louis City School District, Division of Special Education, Special Ed Legal at page 8 (Nov. 13, 1997). In the St. Louis case, the district had agreed to provide the private placement, which was the **only issue** to be presented at the due process hearing. Id. at pg. 6. The chairperson of the hearing panel found that, because the school district agreed to provide the relief requested, the only issue presented by the parent in her request for due process *had* been rendered moot. Id., at p. 8. Therefore, the due process request was *dismissed*.

Because "Tri-County" will not provide; educational services to it is simply impossible for to be placed at "Tri-County." Additionally, because Hickman Mills **will** allow a meeting between Petitioners and the Director of Special Education, Petitioners' requests for relief have been rendered moot. Therefore, Petitioners' Request for a Due Process Hearing, including each and every allegation, should be dismissed.

Respectfully submitted,

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(816) 983-8000  
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Attorneys for Respondent





CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was faxed this 13<sup>th</sup> day of September, 2000, to:

Dr. Gerard A. Fowler  
Attorney-Mediator-Arbitrator  
1349 Grant Road  
Webster Groves, Missouri 63119-4571  
Panel Chair

*Dr. Lonny Morrow, Professor*  
*Truman State University*  
Violate Hall 2346  
100 E. Normal  
Kirksville, Missouri 63501-4221

Dr. Jerry Wright  
22 Ridgetop Drive  
Kirrberling City, Missouri 65686  
and hand-delivered to:  
Attorney for Respondent



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AFFIDAVIT Oh' MIKE SHIELDS

**Mike Shields, being first duly sworn, states the following:**

1. My name is Mike Shields, and I am a School Psychologist for Hickman Mills C-1 School District.
2. At a January 12, 2000 IEP meeting, mother requested that  
be placed at Tri-County for educational services. ( later contacted Tri-County in order  
to determine whether it is a facility which provides day school educational serviced I confirmed that Hickman Mills could not contract  
with Tri-County for a day school placement for
3. Tri-County does not have a day school program.
4. Tri-County serves children with mental health issues, but it does not provide educational services via a day school program.
5. Tri-County sometimes partners with North Kansas City, Missouri School District to provide certain services to those children. Those  
services, however, are only provided to children within the North Kansas City, Missouri School District.



Mike Shields

STATE OF MISSOURI    )  
                  SS  
COUNTY OF Jackson)

Subscribed and sworn to before me this       day of September, 2000.

Notary Public  
My Commission ]Expires:  
ELIZABETH S. McGUIRE  
Notary Public - Notary Seal  
STATE OF MISSOURI  
saw county  
My Commission Expires: Jan. 28. 2002